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Appointments to fill vacancies in subsidiary organs and other appointments: appointment of judges of the United Nations Dispute Tribunal

Appointment of the ad litem judges of the United Nations Dispute Tribunal

Memorandum by the Secretary-General

Addendum

I. Introduction

1. By its resolution 62/228, entitled "Administration of justice at the United Nations", the General Assembly decided, inter alia, to establish a two-tier formal system of administration of justice, comprising a first instance United Nations Dispute Tribunal and an appellate instance United Nations Appeals Tribunal.

2. In the same resolution, the General Assembly also decided that the judges of the Dispute Tribunal and the Appeals Tribunal shall be appointed by the General Assembly on the recommendation of the Internal Justice Council.

3. The statutes for the Dispute Tribunal and the Appeals Tribunal were adopted by the General Assembly in its resolution 63/253. The two Tribunals will be operational as at 1 July 2009.

4. On 2 March 2009, the General Assembly appointed the full-time and half-time judges of the Dispute Tribunal based upon the recommendations of the Internal Justice Council as set out in its report (A/63/489) and pursuant to the procedures outlined by the Secretary-General in his memorandum A/63/700.

5. By resolution 63/253, the General Assembly decided, inter alia, that as an interim measure three ad litem judges should be appointed by the General Assembly to the Dispute Tribunal. The General Assembly also decided that the three ad litem judges would have all the powers conferred on the permanent judges of the Dispute Tribunal and would be appointed only for a period of one year as from 1 July 2009.

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6. It is therefore necessary for the General Assembly, during its sixty-third session, to appoint three ad litem judges to the Dispute Tribunal. The term of office for these judges will be for one year, beginning on 1 July 2009.

II. Internal Justice Council

7. In its report (A/63/489/Add.1), the Internal Justice Council recommends three candidates for appointment as ad litem judges. All were examined and interviewed by the Council in September 2008 and recommended for appointment as permanent judges of the Dispute Tribunal, as described in the report of the Council.

8. As its report indicates, the Council did, in its deliberations on the ad litem judges, take account of the General Assembly's decision, in paragraph 37 (b) of its resolution 62/228, that the Council "[p]rovide its views and recommendations to the General Assembly on two or three candidates for each vacancy in the United Nations Dispute Tribunal". However, the Council has indicated that it considers that given the exigent circumstances and the need for the General Assembly to appoint the ad litem judges before 1 July 2009, it would not be desirable to delay the process by advertising to identify additional suitable candidates for the ad litem positions. Accordingly, the Council based its recommendations for ad litem judges on the candidates already identified in its report (A/63/489). Should the General Assembly require additional candidates to be identified, the Council will take the necessary steps to do so.

9. The candidates recommended by the Council for appointment as ad litem judges are as follows:

(a) Michael Adams (Australia);

(b) Jean-François Cousin (France);

(c) Nkemdilim Amelia Izuako (Nigeria).

10. The candidates' curricula vitae are provided in the above-mentioned report of the Internal Justice Council.

III. Procedure in the General Assembly

11. The appointment of the ad litem judges to the United Nations Dispute Tribunal is not addressed in its statute. Accordingly the appointment of ad litem judges will be made in accordance with the following:

(a) General Assembly resolution 63/253;

(b) General Assembly decision 34/401;

(c) The rules of procedure of the General Assembly;

(d) The recommendations of the Internal Justice Council as set out in its report to the General Assembly (A/63/489/Add.1).

12. It is proposed that the General Assembly proceed to appoint the ad litem judges of the Dispute Tribunal, bearing in mind paragraph 58 of General Assembly resolution 63/253, in which the Assembly invited "Member States when electing

judges to the United Nations Dispute Tribunal and the United Nations Appeals Tribunal, to take due consideration of geographical distribution and gender balance".

13. Only the three candidates recommended by the Internal Justice Council and whose names appear in this memorandum are eligible for election.

14. As the number of candidates recommended by the Internal Justice Council correspond to the number of seats to be filled and reflect geographical distribution and gender balance, it is proposed that, in accordance with paragraph 16 of General Assembly decision 34/401, the General Assembly dispense with a secret ballot for the election of the ad litem judges and appoint them by acclamation.

15. Finally, it should also be borne in mind that the ad litem judges are appointed as a transitional measure for a period of one year only pursuant to General Assembly resolution 63/253 and have not been appointed as permanent judges of the Dispute Tribunal. It is therefore proposed that the General Assembly also decide whether these three ad litem judges would remain eligible for appointment as either a full-time or a half-time judge of the Dispute Tribunal in accordance with its Statute once they have completed their one-year term.